8

TRANSIT AREA SPECIFIC PLAN

Water Supply Assessment

(for compliance with SB 610 and 221 of 2001)

Draft August 11, 2006 to SCVWD for Review

Approved by Milpitas City Council on [redacted]

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SUMMARY

This assessment is completed in compliance with Senate Bill 610 and Senate Bill 221. SB 610 requires a water supply assessment to be included in any environmental documentation for projects exceeding 500 dwelling units. Under SB 221, approval by a City or County of certain residential subdivision requires an affirmative written verification of sufficient water supply.

The assessment was completed using the City of Milpitas 2005 Urban Water Management Plan, the Santa Clara Valley Water District 2005 Urban Water Management Plan and the City of Milpitas 2002 Water Master Plan. The finding is that sufficient supply is available to provide water to the proposed development.

INTRODUCTION

The Transit Area Specific Plan consists of 7,186 residential units, 813,344 sq. ft. of mixed use office, 520,026 of mixed use retail, 351 hotel rooms, 1,316 new students and 2,590,513 sq. ft. of parks/plaza/land. The project site is located near the southern border of Milpitas, mostly west of I-680 and south of Calaveras Blvd. This project exceeds the threshold of 500 dwelling units and therefore requires a Water Supply Assessment under the provisions of California Senate Bill 610 and a written verification of sufficient water supply under California Senate Bill 221. The Water Supply Assessment and written verification shall include:

1. Identification and documentation of water supply entitlements, water rights, or water service contracts relevant to the identified water supply for the proposed project.

2. A discussion with regard to whether the public water system's total projected water supplies available during normal, single dry and multiple dry water years during a 20 year projection will meet the projected water demand associated with the project, in addition to the public water system's existing and planned future uses.

As lead agency, and water service supplier for the residential project, the City of Milpitas prepared this water supply assessment in compliance with SB 610, SB 221 and the California Environmental Quality Act. The findings of this assessment shall be submitted to the City Council for approval and included in the environmental review process.

The City's most current Urban Water Management Plan (UWMP), adopted in 2005, fully accounted for water use associated with the Transit Area Specific Plan's proposed land uses. Water demand factors from the 2002 Water Master Plan were applied to the proposed land use to determine the anticipated project demand of 2.64 million gallons per day (mgd). The 2005 UWMP included 2.66 mgd for the Transit Area Specific Plan.

WATER SUPPLY ASSESSMENT

This section includes an evaluation of the City of Milpitas capability to provide water to the proposed Transit Area Specific Plan described above. In accordance with SB 610 and SB 221, the assessment consists of documenting the following:

1. Water Supplies
   a. Wholesale Sources
   b. Wholesale Supplies

2. Demand Analysis
   a. Transit Area Specific Plan Water Demands
   b. Urban Water Management Plan Projection
   c. Net Increase due to Transit Area Specific Plan

3. Comparison of Supply and Demand under Normal, Single Dry, and Multiple Dry Year Conditions

4. Determination of sufficient or insufficient water supply

1. WATER SUPPLIES

Wholesaler Sources

The City of Milpitas purchases potable water from two wholesalers, the San Francisco Public Utilities Commission (SFPUC) and the Santa Clara Valley Water District (SCVWD). About 60% of Milpitas' drinking water is from SFPUC and the remaining 40% is from the SCVWD. The City also purchases recycled water through the South Bay Water Recycling Program for irrigation purposes.

Annual supply guarantee is established by contractual agreements between the City and the water wholesalers. The SFPUC and SCVWD will continue to supply all potable water over the next 30 years. No new water sources will be added. However, two wells (Pinewood Well and future Curtis well) will be available for emergency purposes and will act as standby sources. According to section 64414, Article 2, Chapter 15, Title 22 of the California Code of Regulations, standby source shall only be used for short-term emergencies of

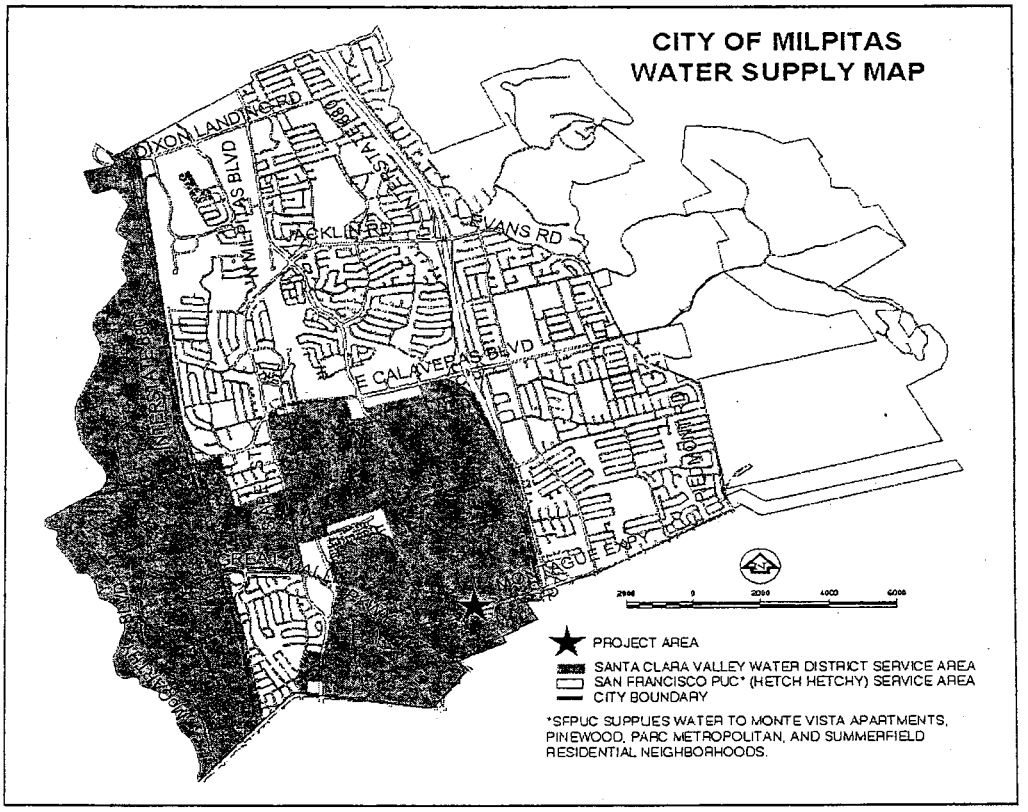
five consecutive days or less, and for less than a total of fifteen calendar days a year. These wells will only be operated in case of emergencies such as a water shortage event or a water contamination event. A water shortage event may take place when there is not enough water from SFPUC and SCVWD to meet the normal demands of the City. A water contamination event may take place when SFPUC and SCVWD water are contaminated and may not meet Safe Drinking Water Act water quality standards, eventually leading to a water shortage event.

Table 1 – Wholesale Supply Source

Supply Source	Entitlement	Right	Contract	Ever Used	Will Supply Project
SCVWD			Yes	Yes	Yes
SFPUC			Yes	Yes	No
Recycled Water			Yes	Yes	Yes, common area landscape.
Wells (Emergency)		Yes		Yes	No

As shown in Figure 1, the City distributes SFPUC wholesale water to areas South of Calaveras Blvd and East of I-680 as well as areas North of Calaveras Blvd and East of I-880. The City distributes SCVWD wholesale water to all areas West of I-880 as well as those areas south of Calaveras Blvd and West of I-680 excluding the Monte Vista Apartments, Pinewood, Parc Metro, and Summerfield residential neighborhoods. These two sources are not blended under normal operating conditions, however, they can be physically interconnected to provide emergency water supply if needed.

Figure 1 - Water Source Map



The proposed Transit Area Specific Plan is located West of I-680 and South of Calaveras Blvd. within the City's SCVWD wholesale distribution area. Therefore, this evaluation will assess project impacts related to water supply and demand within the SCVWD distribution area only.

SCVWD Supply

The City began receiving SCVWD water in August 1993. SCVWD's water supply system is comprised of both treatment and distribution facilities that include imported supply facilities, raw water conveyance facilities, treatment plants, local reservoirs, treated water transmission lines, and the groundwater basin.

SCVWD supplies water to local water retail agencies that, in turn, provide it to their customers in Santa Clara County. In order to maintain maximum efficiency and flexibility, the water supply comes from a variety of sources. Nearly half is from local groundwater aquifers, and more than half is imported from the Sierra Nevada through pumping stations in the Sacramento-San Joaquin River Delta. Both groundwater and imported water are sold to retailers. SCVWD also manages the groundwater basin to the benefit of agricultural users and other independent users who pump groundwater.

Local runoff is captured in local SCVWD reservoirs for recharge into the groundwater basin or treatment at one of SCVWD's Water Treatment Plants (WTPs). The total storage capacity of these reservoirs is about 170,000 acre-feet.

The SCVWD operates three WTPs – Santa Teresa, Rinconada, and Penitencia. Water is provided to the City of Milpitas' SCVWD turnout from the Penitencia WTP or Santa Teresa WTP via the Milpitas Pipeline.

Water purchase from the SCVWD is governed by contract between the SCVWD and the City of Milpitas (Attachment A). The actual contract amount is adjusted periodically based on an annual delivery schedule the City submits every 3 years for the subsequent 3-year period. This schedule is binding for the subsequent 3-year period, and the City's annual purchase must be at least 95% of the maximum year contained in the schedule. The City's monthly "supply guarantee" is at least 15% of the total estimated yearly amount.

Table 2 shows historical purchases from SCVWD. The downward trend is attributed partially to conservation efforts, conversion of potable water irrigation to recycled water irrigation, and economic factors.

Table 2 – SCVWD Historical Water Purchases (mgd)

95-96	96-97	97-98	98-99	99-00	00-01	01-02	02-03	03-04	04-05	05-06
4.59	5.06	4.59	4.21	4.33	4.53	4.03	3.95	3.91	3.53	3.65

City of Milpitas 2005 Urban Water Management Plan Projected Supplies

The City of Milpitas 2005 Urban Water Management plan evaluated current and future water supply and demand in accordance with Section 10631 of the California Water Code. Table 3 below, lists water supplies the City can reasonably expect to receive under "Normal Year" conditions.

Table 3 – Quantity of Water Received in Normal Year (mgd)
Actual and Projected♦

Water Supply Sources	94/95	99/00	04/05	09/10	14/15	19/20	24/25	29/30
SCVWD	3.98	4.33	3.53	5.78	6.37	6.63	6.88	7.13

♦ Source: City of Milpitas 2005 Urban Water Management Plan, Page 12, Table 3-1.

2. *WATER DEMANDSCity of Milpitas 2005 Urban Water Management Plan Projected Demands*

A variety of demographic factors may affect water use. Section 2.4 of the City of Milpitas 2005 Urban Water Management Plan lists planning assumptions used to project future water demands. Table 4 provides the actual and projected water demands under normal conditions. Water demand includes an average unaccounted for water loss of 6.1%.

Table 4 – Normal Year SCVWD Water Demand (mgd)
Actual and Projected♦

Water Supply Sources	94/95	99/00	04/05	09/10	14/15	19/20	24/25	29/30
SCVWD	3.98	4.33	3.53	5.78	6.37	6.68	6.88	7.13

♦ Source: City of Milpitas 2005 Urban Water Management Plan, Page 12, Table 3-1.

The Transit Plan Specific Area was designated as a Tier 2 development in the 2005 UWMP calculations. Two scenarios were evaluated and it was determined that the increase in demand could range from 0.45 mgd to 1.85 mgd. The 2005 UWMP includes an increase of 1.1 mgd for the Transit Area Specific Plan, which is the average of the two scenarios.

Project Demand

The proposed Transit Area Specific Plan project consists of 7,186 residential units, 813,344 sq. ft. of mixed use office, 520,026 of mixed use retail, 351 hotel rooms, and 1,316 new students. Projected water demands for this project are shown in Table 5 and are calculated assuming 2.7 residents per unit and a water demand of 90 gallons per capita per day per the City's 2002 Water Master Plan. As indicated in Table 6, the proposed project was fully accounted for in the UWMP.

Table 5 - Transit Area Specific Plan Water Demand (gpd) ♠

	Development Density •	Water Use Factor	Water Demand (gpd) •
Residential	7,186 du	243 gpd/du ♦	1,746,198
Mixed Use Office	813,344 sf	160 gpd per 1000 sq. ft. (ksf) ♣	130,135
Mixed Use Retail	520,026	150 gpd per 1000 sq. ft. (ksf) ♣	78,004
Hotel	351 rooms	200 gpd per room	70,200
Schools	1,316 students	10 gpd per student	13,160
Parks/Plaza/Land	2,590,513 sf	1300 gpd/ac or 29.844 gpd/ksf♣	77,311 ♥
Base Flow	443,047 gpd		443,047
SubTotal			2,558,055

Less Recycled water to meet demand for Park/Plaza/Landscape	-77,311
Subtotal Potable Water demand	2,480,744
+Unaccounted for water (6.1% of total potable)	161,156
Total Potable Water demand	2,641,900

- ♦ Tables 2-4 (page 2-7) and Table 3-2 (page 3-8) of the 2003 Sewer Master Plan.
- ♣ City of Milpitas 2002 Water Master Plan Table 3-1 with adjustments for % occupancy and floor-area-ratio.
- • See Appendix 1 for reasonable worst case scenario (RWCS) for residential, non-residential, hotel and schools.
- ♠ No changes in zoning.
- ♥ Irrigation use to be met with recycled water.

Table 6 - Project Impact on Potable Water Demand

	Potable Water Demand (gpd)
Transit Area Specific Plan Demand (from Table 5)	2,641,900
2005 UWMP projected demand	(1,100,000 ♥ + 1,560,000 •) = 2,660,000
Net Increase over 2005 UWMP ♣	**-18,100 gpd**

- ♣ The negative number indicates that this project is fully included in the 2005 Urban Water Management Plan and has no impact on the water supply.
- • Water demand as represented in the 2002 Water master Plan at buildout, assuming no zoning change. See Appendix 2 (TOD Sewer Impact Summary)
- ♥ Increase assumed in UWMP = Average of Tier 2 demand of two cases (0.45 mgd and 1.85 mgd) studied in Aug. 2005.

Development of the Transit Area Specific Plan is expected to be phased over a 20 year period starting in 2007. There will be no impact due to this project on the City's water supply. Water demand projections are shown in Table 7. The water will be purchased through the Santa Clara Valley Water District. The SCVWD has reviewed and commented on the draft assessment (see Appendix 3) and their comments have been incorporated into this final document.

Table 7 – Normal Year SCVWD Water Demand (mgd)
Actual and Projected ♣

Water Supply Sources	94/95	99/00	04/05	09/10	14/15	19/20	24/25	29/30
SCVWD	3.98	4.33	3.53	5.78♦	6.37♦	6.63♦	6.88♦	7.13♦

- ♣ Source: City of Milpitas 2005 Urban Water Management Plan Table 3-1.
- ♦ From Table 10.

3. *Supply and Demand Comparison for Normal, Single Dry and Multiple Dry Year's Supply*

Supply Reliability

To maintain water supply reliability and flexibility, SCVWD's water supply includes a variety of sources including local groundwater, imported water, local surface water, and recycled water. SCVWD has an active

conjunctive water management program to optimize the use of groundwater and surface water, and to prevent groundwater overdraft and land subsidence.

Long-term planning and modeling analysis performed by SCVWD as part of the Integrated Water Resources Planning Study (IWRP) and the District's 2005 UWMP indicates that if additional investments are made, future countywide demands can reliably be met. It is the intent of SCVWD to ensure that these additional investments be undertaken in accordance with the IWRP framework, which recommends a flexible resource mix be implemented in phases over the planning horizon. This flexibility allows the District to respond to changing and uncertain future conditions.

As the primary water wholesaler in Santa Clara County, the District has a commitment to ensure that water supply is reliable to meet future demands in Santa Clara County, consistent with the County's and cities' General Plans and other appropriate regional and statewide projections.

Per Figures 6-2 through 6-4, and Tables 6-2 through 6-4 (pages 125-128) of the Santa Clara Valley Water District's 2005 Urban Water Management Plan, the SCVWD's supply will be reliable to meet future countywide demands during normal, single-dry and multiple-dry water years. Although this analysis presents projections of future water supply, ongoing coordination with the SCVWD will be necessary to ensure projections are consistent with SCVWD's long-term water management strategies. The City will continue to work with the SCVWD to refine future water supply projections and ensure that long-term planning efforts are consistent. Tables 8 through 10 compare water supply and demand under normal year, single-dry year and multiple-dry year conditions.

Table 8 - Projected Normal Water Year SCVWD Service Area Supply and Demand Comparison

Fiscal Year	Supply (mgd)	% of Projected Normal Year	Demand (mgd)	% of Year 04/05	Difference Supply – Demand (mgd)	Difference as % of Supply	Difference as Percent of Demand
09/10♦	5.78	100.00%	5.78	163.74%	0	0.00%	0.00%
14/15♦	6.37	100.00%	6.37	180.45%	0	0.00%	0.00%
19/20♦	6.63	100.00%	6.63	187.82%	0	0.00%	0.00%
24/25♦	6.88	100.00%	6.88	194.90%	0	0.00%	0.00%
29/30♦	7.13	100.00%	7.13	201.98%	0	0.00%	0.00%

♦ From Table 10.

Table 9 - Projected Single-Dry Water Year SCVWD Supply and Demand Comparison

Fiscal Year	Supply (mgd)	% of Projected Normal Year	Demand (mgd)	% of Projected Normal Year	Difference Supply Demand (mgd)	Difference as % of Supply	Difference as % of Demand
09/10♦	5.78	100.00%	5.78	100.00%	0	0.00%	0.00%
14/15♦	6.37	100.00%	6.37	100.00%	0	0.00%	0.00%
19/20♦	6.63	100.00%	6.63	100.00%	0	0.00%	0.00%
24/25♦	6.88	100.00%	6.88	100.00%	0	0.00%	0.00%
29/30♦	7.13	100.00%	7.13	100.00%	0	0.00%	0.00%

♦ From Table 10.

Table 10 - Projected Multiple-Dry Water Year SCVWD Supply and Demand Comparison

Fiscal Year	Supply (mgd)	% of Projected Normal Year	Demand (mgd)	% of Projected Normal Year	Difference Supply Demand (mgd)	Difference as % of Supply	Difference as % of Demand
05/06	3.98	100.00%	3.98	100.00%	0	0.00%	0.00%
06/07	4.43	100.00%	4.43	100.00%	0	0.00%	0.00%
07/08	4.88	100.00%	4.88	100.00%	0	0.00%	0.00%
08/09	5.33	100.00%	5.33	100.00%	0	0.00%	0.00%
09/10	5.78	100.00%	5.78	100.00%	0	0.00%	0.00%
10/11	5.90	100.00%	5.90	100.00%	0	0.00%	0.00%
11/12	6.01	100.00%	6.01	100.00%	0	0.00%	0.00%
12/13	6.12	100.00%	6.12	100.00%	0	0.00%	0.00%
13/14	6.24	100.00%	6.24	100.00%	0	0.00%	0.00%
14/15	6.37	100.00%	6.37	100.00%	0	0.00%	0.00%
15/16	6.42	100.00%	6.42	100.00%	0	0.00%	0.00%
16/17	6.47	100.00%	6.47	100.00%	0	0.00%	0.00%
17/18	6.53	100.00%	6.53	100.00%	0	0.00%	0.00%
18/19	6.58	100.00%	6.58	100.00%	0	0.00%	0.00%
19/20	6.63	100.00%	6.63	100.00%	0	0.00%	0.00%
20/21	6.68	100.00%	6.68	100.00%	0	0.00%	0.00%
21/22	6.73	100.00%	6.73	100.00%	0	0.00%	0.00%
22/23	6.79	100.00%	6.79	100.00%	0	0.00%	0.00%
23/24	6.84	100.00%	6.84	100.00%	0	0.00%	0.00%
24/25	6.88	100.00%	6.88	100.00%	0	0.00%	0.00%
25/26	6.93	100.00%	6.93	100.00%	0	0.00%	0.00%
26/27	6.98	100.00%	6.98	100.00%	0	0.00%	0.00%
27/28	7.03	100.00%	7.03	100.00%	0	0.00%	0.00%
28/29	7.08	100.00%	7.08	100.00%	0	0.00%	0.00%
29/30	7.13	100.00%	7.13	100.00%	0	0.00%	0.00%

CONCLUSION

The Santa Clara Valley Water District has a commitment to ensure that water supply is reliable to meet future demands. The City recognizes that, in order to meet this commitment, funding for long-term water supply projects and infrastructure projects must be secured. The City also promotes and encourages water conservation and recycled water usage where applicable. All constructions are required to conform to the Plumbing Code. The City has an Efficient Landscape Ordinance, Ordinance 238, to regulate efficient water use for existing and new landscapes.

This evaluation is based on projections from the City of Milpitas 2005 Urban Water Management Plan, City of Milpitas 2002 Water Master Plan and the Santa Clara Valley Water District's 2005 Urban Water Management Plan. Based upon evaluation results, the staff of the Utility Engineering Section has determined

that there is sufficient water supply to provide service for the Transit Area Specific Plan. However, to reduce potable water demand, this development should incorporate water conservation practices and recycled water usage to the maximum extent practicable in accordance with City policies.

APPENDIX 1 – BASE DATA ASSUMPTIONS

Table 1-W
Base Data Assumptions ♦♣

Proposed Land Use		Density Option	Draft Preferred Plan	Comments
Residential (# of Dwelling Units)				
Very High Density Transit Oriented Residential		low	1,342	Assumes 31-60 du / acre
		high	1,964	
		rwcs	1,488	
Very High Density Transit Oriented with Transit Density Overlay		Low	814	Assumes 31-75 du / acre.
		High	1,486	
		rwcs	1,035	
High Density Transit Oriented		low	3,270	Assumes 31-40 du / acre
		high	4,220	
		rwcs	3,371	
Medium Density Residential		low	0	Assumes 21-30 du / acre
		high	0	
		rwcs	0	
BLVD Very High Density Mixed Use Residential	VHD	low	610	Assumes density of 31-60 du / acre and 60% residential development in mixed use areas
		high	893	
		rwcs	676	
	VHD w/ Density Bonus	low	483	Assumes 31-75 du/acre and 60% residential use in mxd use areas
		high	885	
		rwcs	616	
Total Residential (Sum of rwcs)			7,186	
Non-Residential (Square Feet)				
BLVD VHD Mixed Use - Office	Office	low	378,072	Assumes 35% office use in mixed use areas. FAR = 1.0 to 1.5.
		high	567,107	
		rwcs	425,331	
	Office w/ Density Bonus	low	299,913	Assumes 35% office use in mixed use areas. FAR = 1.0 - 1.88.
		high	562,337	
		rwcs	388,013	
Total Mixed Use Office (sum of rwcs)			**813,344**	
BLVD VHD Mixed Use - Retail	Retail	low	18,904	Assumes 5% retail use in mixed use areas. FAR = .35. Modified rwcs mjn 080106
		high	18,904	
		rwcs	30,509	
	Retail w/ Density	low	14,995	Assumes 5% retail use in mixed use areas. FAR = .35 to .44

	Density Bonus	high	18,744	areas. FAR = .35 to .44
		rwcs	427,720	
Retail		low	68,663	
		high	68,663	
		rwcs	61,797	
Mixed Use Retail (sum of rwcs)			**520,026**	
Light Industrial		low	0	
		high	0	
		rwcs	0	
Parks/Plazas			1,369,091	
Landscape Areas			1,221,442	
Total Park/Plaza/Landscape			**2,590,513**	
Hotel (# of Rooms)				
Hotel		low	350	Assume 1 hotel unit per 500 square feet
		high	430	
		rwcs	351	
Schools (# of new students)				
Schools		rwcs	1,316	
Base Demand (gpd)				
Base Demand			443,047	

♦ Based upon development data provided by Dyett $ & Bhatia 3/3/06 and 8/3/06.

♣ Residential estimates equal number of dwelling units, non-residential estimates equal gross square feet floor area.

APPENDIX 2 – TOD SEWER IMPACT SUMMARY

Draft Preferred Plan ♥

Table 1 – Water and Sewer Master Plan Build out Water Demand and Sewage Flows (gpd)

Land Use	Water Demand	Sewage Week day	Sewage Week End	Remarks
CMRL	22,968.14	9,570	9,570	General Commercial
CVC	6,920.06	3,460	3,460	Public/Semi-public
Hotel	30,510.14	29,700	29,700	
IND	184,819.97	92,370	55,422	Industrial Manufacturing/Warehousing
IND-TOD	230,003.71	78,780	47,268	Manufacturing/Warehousing TOD
LWU	91,051.06	67,338	67,338	Large Water User/Discharger
MFVH-TOD	956,885.47	912,401	948,907	Multifamily very high with TOD
PAO	13,792.03	4,310	4,310	Professional/Administrative offices
RSC	16,902.58	3,940	3,940	Retail Sub-center
SCHL	0.00	0	0	School, no water demand nor sewer flow were assigned to this parcel in the area.
Subtotal	1,553,853.17	1,201,869	1,169,915	

Table 2 – Baseline Water Demand and Sewage Flow Retained Within Project Area (gpd)

Land Use	Water	Sewage WD	Sewage WE	
CMRL	22,944.10	9,560	9,560	General Commercial
CVC	6,920.06	3,460	3,460	Public/Semi-public
Hotel	30,510.14	29,700	29,700	
IND	5,620.03	2,770	1,662	Industrial Manufacturing/Warehousing

IND-TOD	9,488.02	5,930	3,558	Manufacturing/Warehousing TOD
LWU	91,051.06	67,338	67,338	Large Water User/Discharger
MFVH-TOD	245,818.80	232,162	233,702	Multifamily very high with TOD
PAO	13,792.03	4,310	4,310	Professional/Administrative offices
RSC	16,902.58	3,940	3,940	Retail Sub-center
SCHL	0.00	0	0	School, no water demand nor sewer flow were assigned to this parcel in the area.
Subtotal	**443,046.82**	359,170.00	357,230.00	

♥ Development densities provided by Dyett and Bhatia March 3, 2006.

• RWCS = Reasonable Worst Case Scenario. Assumes development will occur at 90% of high low midpoint.

APPENDIX 3 – SCVWD COMMENT LETTER

Santa Clara Valley
Water District

5750 ALMADEN EXPWY
SAN JOSE, CA 95118-3686
TELEPHONE (408) 265-2600
FACIMILE (408) 266-0271
www.valleywater.org
AN EQUAL OPPORTUNITY EMPLOYER

September 8, 2006

Ms. Marilyn Nickel
Transit Area Specific Plan
City of Milpitas
455 East Calaveras Blvd.
Milpitas, CA 95035

Subject: COMMENTS TO THE WATER SUPPLY ASSESSMENT FOR MILPITAS TRANSIT AREA SPECIFIC PLAN, DRAFT, AUGUST 11, 2006

Dear Ms. Nickel:

The District received a draft copy of the Water Supply Assessment (WSA) for the Transit Area Specific Plan, dated August 11, 2006. The draft WSA has an estimated proposed potable water demand of up to **2,981 acre-feet per year (AFY)** at expected build out year of 2027. The development consists of 7,186 residential units, 813,344 square-feet (sf) of mixed use office, 520,026 sf of mixed use retail, 351 hotel rooms, 1,316 new students and 2,590,513 sf of parks/plaza/land. The project site is located near the southern border of Milpitas, mostly west of I-680 and south of Calaveras Boulevard.

We understand that the City of Milpitas Urban Water Management Plan (UWMP) for 2005 includes an increased water demand for this development. The District included this water increased demand for the City of Milpitas in our 2005 UWMP. Please also refer to Section 2.4 "Long-Term Water Supply Planning Assumptions," pages 14-16 of the District's 2005 UWMP. The District has reviewed the subject draft WSA and provides the following comments:

GROUNDWATER:

The language in page 3 includes "...two wells (Pinewood Well and future Curtis Well) will be available for emergency purposes," however, Table 1 (page 4) indicates supply source from wells (emergency) will NOT supply project. Please elaborate on what conditions constitute an "emergency," i.e. water shortage amount, other conditions, etc...

RECYCLED WATER:

We understand that up to 77,311 gallons per day (87 AFY) is planned for recycled water use for the project's park/plaza/landscape. We nonetheless, recommend that any new plumbing or modification to existing plumbing include the option of using recycled water.

Recycled water should be required where practical for all new construction. This includes landscape irrigation where appropriate depending on quality, ornamental features (fountains, ponds), and potential toilet flushing in the new development. We recommend maximizing recycled water usage. For groundwater issues, please contact Barbara Judd and Behzad Ahmadi; and for recycled water - Hossein Ashktorab.

WATER CONSERVATION:

- Low-water use landscaping should be included in the mitigation measures with an explanation how reduction in landscaping water needs will be achieved. The EIR should specify the planting of water-efficient landscape materials, including climate-appropriate natives, wherever possible.

- The District recommends that all new residential and commercial development incorporate baseline water conservation measures as well as enhanced conservation to meet the conservation projections identified in District's 2005 UWMP to the maximum extent practicable. This includes water-saving measures and the most current water conserving technologies/practices available. In order to meet water supply goals for normal, single dry and multiple dry years, enhanced conservation should be required to the maximum extent practicable, including, but not limited to:

    - *Construction standards that require high-efficiency fixtures (for example,* high-efficiency washing machines *and high-efficiency 1.2 gallons-per-flush toilets rather than the 1.6 gallon per flush as required by Code);*
    - Implementation of high-efficiency devices for outdoor water uses (such as self-adjusting weather-based irrigation controllers – also known as "Smart Controllers");
    - *Enforcement of the City's Model Efficient Landscape Ordinance (as per AB 325 1990);*
    - Metering or sub-metering is highly recommended for each individual unit
    - *Dual plumbing for interior recycled water use where practical;*
    - Promotion and use of low-water using and climate appropriate plants.

- Water conservation measures should be employed both indoor and outdoor to the maximum extent practicable. Additional information on latest developments in water conservation can be obtained from Hossein Ashktorab in the Districts Water Use Efficiency Unit.

MISCELLANEOUS:

- A small typo, page 6 incorrectly references a different project, i.e. "The proposed **Murphy Ranch** project consists of..." should read instead read as "The proposed Transit Area Specific Plan project consists of..."

If you have any questions or comments regarding this letter, please feel free to contact me at (408) 265-2607, extension 2532, or Mr. Jim Crowley at extension 2877.

Sincerely,

Miguel A. Silva
Water Supply Engineer
Water Supply Sustainability Planning Unit

cc: K. Whitman, M. Richardson, J. Crowley, B. Ahmadi, H. Ashktorab, T. Hipol, M. Silva

Senate Bill No. 610

CHAPTER 643

An act to amend Section 21151.9 of the Public Resources Code, and to amend Sections 10631, 10656, 10910, 10911, 10912, and 10915 of, to repeal Section 10913 of, and to add and repeal Section 10657 of, the Water Code, relating to water.

[Approved by Governor October 9, 2001. Filed with Secretary of State October 9, 2001.]

LEGISLATIVE COUNSEL'S DIGEST

SB 610, Costa. Water supply planning.

(1) Existing law requires every urban water supplier to identify, as part of its urban water management plan, the existing and planned sources of water available to the supplier over a prescribed 5-year period. Existing law prohibits an urban water supplier that fails to prepare or submit its urban water management plan to the Department of Water Resources from receiving drought assistance from the state until the plan is submitted.

This bill would require additional information to be included as part of an urban water management plan if groundwater is identified as a source of water available to the supplier. The bill would require an urban water supplier to include in the plan a description of all water supply projects and programs that may be undertaken to meet total projected water use. The bill would prohibit an urban water supplier that fails to prepare or submit the plan to the department from receiving funding made available from specified bond acts until the plan is submitted. The bill, until January 1, 2006, would require the department to take into consideration whether the urban water supplier has submitted an updated plan, as specified, in determining eligibility for funds made available pursuant to any program administered by the department.

(2) Existing law, under certain circumstances, requires a city or county that determines an environmental impact report is required in connection with a project, as defined, to request each public water system that may supply water for the project to assess, among other things, whether its total projected water supplies will meet the projected water demand associated with the proposed project. Existing law requires the public water system to submit the assessment to the city or county not later than 30 days from the date on which the request was received and, in the absence of the submittal of an assessment, provides that it shall be assumed that the public water system has no information

to submit. Existing law makes legislative findings and declarations concerning "Proposition C," a measure approved by the voters of San Diego County relating to regional growth management, and provides that the procedures established by a specified review board established in connection with that measure are deemed to comply with the requirements described above relating to water supply planning by a city or county.

This bill would revise those provisions. The bill, instead, would require a city or county that determines a project is subject to the California Environmental Quality Act to identify any public water system that may supply water for the project and to request those public water systems to prepare a specified water supply assessment, except as otherwise specified. The bill would require the assessment to include, among other information, an identification of existing water supply entitlements, water rights, or water service contracts relevant to the identified water supply for the proposed project and water received in prior years pursuant to those entitlements, rights, and contracts. The bill would require the city or county, if it is not able to identify any public water system that may supply water for the project, to prepare the water supply assessment after a prescribed consultation. The bill would revise the definition of "project," for the purposes of these provisions, and make related changes.

The bill would prescribe a timeframe within which a public water system is required to submit the assessment to the city or county and would authorize the city or county to seek a writ of mandamus to compel the public water system to comply with requirements relating to the submission of the assessment.

The bill would require the public water system, or the city or county, as applicable, if that entity concludes that water supplies are, or will be, insufficient, to submit the plans for acquiring additional water supplies.

The bill would require the city or county to include the water supply assessment and certain other information in any environmental document prepared for the project pursuant to the act. By establishing duties for counties and cities, the bill would impose a state-mandated local program.

The bill would provide that the County of San Diego is deemed to comply with these water supply planning requirements if the Office of Planning and Research determines that certain requirements have been met in connection with the implementation of "Proposition C."

(3) The bill would incorporate additional changes in Section 10631 of the Water Code proposed by AB 901, to be operative only if this bill and AB 901 are enacted and become effective on or before January 1,

2002, each bill amends Section 10631 of the Water Code, and this bill is enacted last.

(4) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

The people of the State of California do enact as follows:

SECTION 1. (a) The Legislature finds and declares all of the following:

(1) The length and severity of droughts in California cannot be predicted with any accuracy.

(2) There are various factors that affect the ability to ensure that adequate water supplies are available to meet all of California's water demands, now and in the future.

(3) Because of these factors, it is not possible to guarantee a permanent water supply for all water users in California in the amounts requested.

(4) Therefore, it is critical that California's water agencies carefully assess the reliability of their water supply and delivery systems.

(5) Furthermore, California's overall water delivery system has become less reliable over the last 20 years because demand for water has continued to grow while new supplies have not been developed in amounts sufficient to meet the increased demand.

(6) There are a variety of measures for developing new water supplies including water reclamation, water conservation, conjunctive use, water transfers, seawater desalination, and surface water and groundwater storage.

(7) With increasing frequency, California's water agencies are required to impose water rationing on their residential and business customers during this state's frequent and severe periods of drought.

(8) The identification and development of water supplies needed during multiple-year droughts is vital to California's business climate, as well as to the health of the agricultural industry, environment, rural communities, and residents who continue to face the possibility of severe water cutbacks during water shortage periods.

(9) A recent study indicates that the water supply and land use planning linkage, established by Part 2.10 (commencing with Section 10910) of Division 6 of the Water Code, has not been implemented in a manner that ensures the appropriate level of communication between

water agencies and planning agencies, and this act is intended to remedy that deficiency in communication.

(b) It is the intent of the Legislature to strengthen the process pursuant to which local agencies determine the adequacy of existing and planned future water supplies to meet existing and planned future demands on those water supplies.

SEC. 2. Section 21151.9 of the Public Resources Code is amended to read:

21151.9. Whenever a city or county determines that a project, as defined in Section 10912 of the Water Code, is subject to this division, it shall comply with Part 2.10 (commencing with Section 10910) of Division 6 of the Water Code.

SEC. 3. Section 10631 of the Water Code is amended to read:

10631. A plan shall be adopted in accordance with this chapter and shall do all of the following:

(a) Describe the service area of the supplier, including current and projected population, climate, and other demographic factors affecting the supplier's water management planning. The projected population estimates shall be based upon data from the state, regional, or local service agency population projections within the service area of the urban water supplier and shall be in five-year increments to 20 years or as far as data is available.

(b) Identify and quantify, to the extent practicable, the existing and planned sources of water available to the supplier over the same five-year increments as described in subdivision (a). If groundwater is identified as an existing or planned source of water available to the supplier, all of the following information shall be included in the plan:

(1) A copy of any groundwater management plan adopted by the urban water supplier, including plans adopted pursuant to Part 2.75 (commencing with Section 10750), or any other specific authorization for groundwater management.

(2) A description of any groundwater basin or basins from which the urban water supplier pumps groundwater. For those basins for which a court or the board has adjudicated the rights to pump groundwater, a copy of the order or decree adopted by the court or the board and a description of the amount of groundwater the urban water supplier has the legal right to pump under the order or decree. For basins that have not been adjudicated, information as to whether the department has identified the basin or basins as overdrafted or has projected that the basin will become overdrafted if present management conditions continue, in the most current official departmental bulletin that characterizes the condition of the groundwater basin, and a detailed

description of the efforts being undertaken by the urban water supplier to eliminate the long-term overdraft condition.

(3) A detailed description and analysis of the amount and location of groundwater pumped by the urban water supplier for the past five years. The description and analysis shall be based on information that is reasonably available, including, but not limited to, historic use records.

(4) A detailed description and analysis of the location, amount, and sufficiency of groundwater that is projected to be pumped by the urban water supplier. The description and analysis shall be based on information that is reasonably available, including, but not limited to, historic use records.

(c) Describe the reliability of the water supply and vulnerability to seasonal or climatic shortage, to the extent practicable, and provide data for each of the following:

(1) An average water year.

(2) A single dry water year.

(3) Multiple dry water years.

For any water source that may not be available at a consistent level of use, given specific legal, environmental, water quality, or climatic factors, describe plans to replace that source with alternative sources or water demand management measures, to the extent practicable.

(d) Describe the opportunities for exchanges or transfers of water on a short-term or long-term basis.

(e) (1) Quantify, to the extent records are available, past and current water use, over the same five-year increments described in subdivision (a), and projected water use, identifying the uses among water use sectors, including, but not necessarily limited to, all of the following uses:

(A) Single-family residential.

(B) Multifamily.

(C) Commercial.

(D) Industrial.

(E) Institutional and governmental.

(F) Landscape.

(G) Sales to other agencies.

(H) Saline water intrusion barriers, groundwater recharge, or conjunctive use, or any combination thereof.

(I) Agricultural.

(2) The water use projections shall be in the same five-year increments as described in subdivision (a).

(f) Provide a description of the supplier's water demand management measures. This description shall include all of the following:

(1) A description of each water demand management measure that is currently being implemented, or scheduled for implementation, including the steps necessary to implement any proposed measures, including, but not limited to, all of the following:

(A) Water survey programs for single-family residential and multifamily residential customers.

(B) Residential plumbing retrofit.

(C) System water audits, leak detection, and repair.

(D) Metering with commodity rates for all new connections and retrofit of existing connections.

(E) Large landscape conservation programs and incentives.

(F) High-efficiency washing machine rebate programs.

(G) Public information programs.

(H) School education programs.

(I) Conservation programs for commercial, industrial, and institutional accounts.

(J) Wholesale agency programs.

(K) Conservation pricing.

(L) Water conservation coordinator.

(M) Water waste prohibition.

(N) Residential ultra-low-flush toilet replacement programs.

(2) A schedule of implementation for all water demand management measures proposed or described in the plan.

(3) A description of the methods, if any, that the supplier will use to evaluate the effectiveness of water demand management measures implemented or described under the plan.

(4) An estimate, if available, of existing conservation savings on water use within the supplier's service area, and the effect of such savings on the supplier's ability to further reduce demand.

(g) An evaluation of each water demand management measure listed in paragraph (1) of subdivision (f) that is not currently being implemented or scheduled for implementation. In the course of the evaluation, first consideration shall be given to water demand management measures, or combination of measures, that offer lower incremental costs than expanded or additional water supplies. This evaluation shall do all of the following:

(1) Take into account economic and noneconomic factors, including environmental, social, health, customer impact, and technological factors.

(2) Include a cost-benefit analysis, identifying total benefits and total costs.

(3) Include a description of funding available to implement any planned water supply project that would provide water at a higher unit cost.

(4) Include a description of the water supplier's legal authority to implement the measure and efforts to work with other relevant agencies to ensure the implementation of the measure and to share the cost of implementation.

(h) Include a description of all water supply projects and water supply programs that may be undertaken by the urban water supplier to meet the total projected water use as established pursuant to subdivision (a) of Section 10635. The urban water supplier shall include a detailed description of expected future projects and programs, other than the demand management programs identified pursuant to paragraph (1) of subdivision (f), that the urban water supplier may implement to increase the amount of the water supply available to the urban water supplier in average, single dry, and multiple dry water years. The description shall identify specific projects and include a description of the increase in water supply that is expected to be available from each project. The description shall include an estimate with regard to the implementation timeline for each project or program.

(i) Urban water suppliers that are members of the California Urban Water Conservation Council and submit annual reports to that council in accordance with the "Memorandum of Understanding Regarding Urban Water Conservation in California," dated September 1991, may submit the annual reports identifying water demand management measures currently being implemented, or scheduled for implementation, to satisfy the requirements of subdivisions (f) and (g).

SEC. 3.5. Section 10631 of the Water Code is amended to read:

10631. A plan shall be adopted in accordance with this chapter and shall do all of the following:

(a) Describe the service area of the supplier, including current and projected population, climate, and other demographic factors affecting the supplier's water management planning. The projected population estimates shall be based upon data from the state, regional, or local service agency population projections within the service area of the urban water supplier and shall be in five-year increments to 20 years or as far as data is available.

(b) Identify and quantify, to the extent practicable, the existing and planned sources of water available to the supplier over the same five-year increments as described in subdivision (a). If groundwater is identified as an existing or planned source of water available to the supplier, all of the following information shall be included in the plan:

(1) A copy of any groundwater management plan adopted by the urban water supplier, including plans adopted pursuant to Part 2.75 (commencing with Section 10750), or any other specific authorization for groundwater management.

(2) A description of any groundwater basin or basins from which the urban water supplier pumps groundwater. For those basins for which a court or the board has adjudicated the rights to pump groundwater, a copy of the order or decree adopted by the court or the board and a description of the amount of groundwater the urban water supplier has the legal right to pump under the order or decree. For basins that have not been adjudicated, information as to whether the department has identified the basin or basins as overdrafted or has projected that the basin will become overdrafted if present management conditions continue, in the most current official departmental bulletin that characterizes the condition of the groundwater basin, and a detailed description of the efforts being undertaken by the urban water supplier to eliminate the long-term overdraft condition.

(3) A detailed description and analysis of the location, amount, and sufficiency of groundwater pumped by the urban water supplier for the past five years. The description and analysis shall be based on information that is reasonably available, including, but not limited to, historic use records.

(4) A detailed description and analysis of the amount and location of groundwater that is projected to be pumped by the urban water supplier. The description and analysis shall be based on information that is reasonably available, including, but not limited to, historic use records.

(c) Describe the reliability of the water supply and vulnerability to seasonal or climatic shortage, to the extent practicable, and provide data for each of the following:

(1) An average water year.

(2) A single dry water year.

(3) Multiple dry water years.

For any water source that may not be available at a consistent level of use, given specific legal, environmental, water quality, or climatic factors, describe plans to supplement or replace that source with alternative sources or water demand management measures, to the extent practicable.

(d) Describe the opportunities for exchanges or transfers of water on a short-term or long-term basis.

(e) (1) Quantify, to the extent records are available, past and current water use, over the same five-year increments described in subdivision (a), and projected water use, identifying the uses among water use

sectors, including, but not necessarily limited to, all of the following uses:

(A) Single-family residential.

(B) Multifamily.

(C) Commercial.

(D) Industrial.

(E) Institutional and governmental.

(F) Landscape.

(G) Sales to other agencies.

(H) Saline water intrusion barriers, groundwater recharge, or conjunctive use, or any combination thereof.

(I) Agricultural.

(2) The water use projections shall be in the same five-year increments as described in subdivision (a).

(f) Provide a description of the supplier's water demand management measures. This description shall include all of the following:

(1) A description of each water demand management measure that is currently being implemented, or scheduled for implementation, including the steps necessary to implement any proposed measures, including, but not limited to, all of the following:

(A) Water survey programs for single-family residential and multifamily residential customers.

(B) Residential plumbing retrofit.

(C) System water audits, leak detection, and repair.

(D) Metering with commodity rates for all new connections and retrofit of existing connections.

(E) Large landscape conservation programs and incentives.

(F) High-efficiency washing machine rebate programs.

(G) Public information programs.

(H) School education programs.

(I) Conservation programs for commercial, industrial, and institutional accounts.

(J) Wholesale agency programs.

(K) Conservation pricing.

(L) Water conservation coordinator.

(M) Water waste prohibition.

(N) Residential ultra-low-flush toilet replacement programs.

(2) A schedule of implementation for all water demand management measures proposed or described in the plan.

(3) A description of the methods, if any, that the supplier will use to evaluate the effectiveness of water demand management measures implemented or described under the plan.

(4) An estimate, if available, of existing conservation savings on water use within the supplier's service area, and the effect of the savings on the supplier's ability to further reduce demand.

(g) An evaluation of each water demand management measure listed in paragraph (1) of subdivision (f) that is not currently being implemented or scheduled for implementation. In the course of the evaluation, first consideration shall be given to water demand management measures, or combination of measures, that offer lower incremental costs than expanded or additional water supplies. This evaluation shall do all of the following:

(1) Take into account economic and noneconomic factors, including environmental, social, health, customer impact, and technological factors.

(2) Include a cost-benefit analysis, identifying total benefits and total costs.

(3) Include a description of funding available to implement any planned water supply project that would provide water at a higher unit cost.

(4) Include a description of the water supplier's legal authority to implement the measure and efforts to work with other relevant agencies to ensure the implementation of the measure and to share the cost of implementation.

(h) Include a description of all water supply projects and water supply programs that may be undertaken by the urban water supplier to meet the total projected water use as established pursuant to subdivision (a) of Section 10635. The urban water supplier shall include a detailed description of expected future projects and programs, other than the demand management programs identified pursuant to paragraph (1) of subdivision (f), that the urban water supplier may implement to increase the amount of the water supply available to the urban water supplier in average, single dry, and multiple dry water years. The description shall identify specific projects and include a description of the increase in water supply that is expected to be available from each project. The description shall include an estimate with regard to the implementation timeline for each project or program.

(i) Urban water suppliers that are members of the California Urban Water Conservation Council and submit annual reports to that council in accordance with the "Memorandum of Understanding Regarding Urban Water Conservation in California," dated September 1991, may submit the annual reports identifying water demand management measures currently being implemented, or scheduled for implementation, to satisfy the requirements of subdivisions (f) and (g).

SEC. 4. Section 10656 of the Water Code is amended to read:

10656. An urban water supplier that does not prepare, adopt, and submit its urban water management plan to the department in accordance with this part, is ineligible to receive funding pursuant to Division 24 (commencing with Section 78500) or Division 26 (commencing with Section 79000), or receive drought assistance from the state until the urban water management plan is submitted pursuant to this article.

SEC. 4.3. Section 10657 is added to the Water Code, to read:

10657. (a) The department shall take into consideration whether the urban water supplier has submitted an updated urban water management plan that is consistent with Section 10631, as amended by the act that adds this section, in determining whether the urban water supplier is eligible for funds made available pursuant to any program administered by the department.

(b) This section shall remain in effect only until January 1, 2006, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 2006, deletes or extends that date.

SEC. 4.5. Section 10910 of the Water Code is amended to read:

10910. (a) Any city or county that determines that a project, as defined in Section 10912, is subject to the California Environmental Quality Act (Division 13 (commencing with Section 21000) of the Public Resources Code) under Section 21080 of the Public Resources Code shall comply with this part.

(b) The city or county, at the time that it determines whether an environmental impact report, a negative declaration, or a mitigated negative declaration is required for any project subject to the California Environmental Quality Act pursuant to Section 21080.1 of the Public Resources Code, shall identify any water system that is, or may become as a result of supplying water to the project identified pursuant to this subdivision, a public water system, as defined in Section 10912, that may supply water for the project. If the city or county is not able to identify any public water system that may supply water for the project, the city or county shall prepare the water assessment required by this part after consulting with any entity serving domestic water supplies whose service area includes the project site, the local agency formation commission, and any public water system adjacent to the project site.

(c) (1) The city or county, at the time it makes the determination required under Section 21080.1 of the Public Resources Code, shall request each public water system identified pursuant to subdivision (b) to determine whether the projected water demand associated with a proposed project was included as part of the most recently adopted urban water management plan adopted pursuant to Part 2.6 (commencing with Section 10610).

(2) If the projected water demand associated with the proposed project was accounted for in the most recently adopted urban water management plan, the public water system may incorporate the requested information from the urban water management plan in preparing the elements of the assessment required to comply with subdivisions (d), (e), (f), and (g).

(3) If the projected water demand associated with the proposed project was not accounted for in the most recently adopted urban water management plan, or the public water system has no urban water management plan, the water supply assessment for the project shall include a discussion with regard to whether the public water system's total projected water supplies available during normal, single dry, and multiple dry water years during a 20-year projection will meet the projected water demand associated with the proposed project, in addition to the public water system's existing and planned future uses, including agricultural and manufacturing uses.

(4) If the city or county is required to comply with this part pursuant to subdivision (b), the water supply assessment for the project shall include a discussion with regard to whether the total projected water supplies, determined to be available by the city or county for the project during normal, single dry, and multiple dry water years during a 20-year projection, will meet the projected water demand associated with the proposed project, in addition to existing and planned future uses, including agricultural and manufacturing uses.

(d) (1) The assessment required by this section shall include an identification of any existing water supply entitlements, water rights, or water service contracts relevant to the identified water supply for the proposed project, and a description of the quantities of water received in prior years by the public water system, or the city or county if either is required to comply with this part pursuant to subdivision (b), under the existing water supply entitlements, water rights, or water service contracts.

(2) An identification of existing water supply entitlements, water rights, or water service contracts held by the public water system, or the city or county if either is required to comply with this part pursuant to subdivision (b), shall be demonstrated by providing information related to all of the following:

(A) Written contracts or other proof of entitlement to an identified water supply.

(B) Copies of a capital outlay program for financing the delivery of a water supply that has been adopted by the public water system.

(C) Federal, state, and local permits for construction of necessary infrastructure associated with delivering the water supply.

(D) Any necessary regulatory approvals that are required in order to be able to convey or deliver the water supply.

(e) If no water has been received in prior years by the public water system, or the city or county if either is required to comply with this part pursuant to subdivision (b), under the existing water supply entitlements, water rights, or water service contracts, the public water system, or the city or county if either is required to comply with this part pursuant to subdivision (b), shall also include in its water supply assessment pursuant to subdivision (c), an identification of the other public water systems or water service contractholders that receive a water supply or have existing water supply entitlements, water rights, or water service contracts, to the same source of water as the public water system, or the city or county if either is required to comply with this part pursuant to subdivision (b), has identified as a source of water supply within its water supply assessments.

(f) If a water supply for a proposed project includes groundwater, the following additional information shall be included in the water supply assessment:

(1) A review of any information contained in the urban water management plan relevant to the identified water supply for the proposed project.

(2) A description of any groundwater basin or basins from which the proposed project will be supplied. For those basins for which a court or the board has adjudicated the rights to pump groundwater, a copy of the order or decree adopted by the court or the board and a description of the amount of groundwater the public water system, or the city or county if either is required to comply with this part pursuant to subdivision (b), has the legal right to pump under the order or decree. For basins that have not been adjudicated, information as to whether the department has identified the basin or basins as overdrafted or has projected that the basin will become overdrafted if present management conditions continue, in the most current bulletin of the department that characterizes the condition of the groundwater basin, and a detailed description by the public water system, or the city or county if either is required to comply with this part pursuant to subdivision (b), of the efforts being undertaken in the basin or basins to eliminate the long-term overdraft condition.

(3) A detailed description and analysis of the amount and location of groundwater pumped by the public water system, or the city or county if either is required to comply with this part pursuant to subdivision (b), for the past five years from any groundwater basin from which the proposed project will be supplied. The description and analysis shall be

based on information that is reasonably available, including, but not limited to, historic use records.

(4) A detailed description and analysis of the amount and location of groundwater that is projected to be pumped by the public water system, or the city or county if either is required to comply with this part pursuant to subdivision (b), from any basin from which the proposed project will be supplied. The description and analysis shall be based on information that is reasonably available, including, but not limited to, historic use records.

(5) An analysis of the sufficiency of the groundwater from the basin or basins from which the proposed project will be supplied to meet the projected water demand associated with the proposed project. A water supply assessment shall not be required to include the information required by this paragraph if the public water system determines, as part of the review required by paragraph (1), that the sufficiency of groundwater necessary to meet the initial and projected water demand associated with the project was addressed in the description and analysis required by paragraph (4) of subdivision (b) of Section 10631.

(g) (1) Subject to paragraph (2), the governing body of each public water system shall submit the assessment to the city or county not later than 90 days from the date on which the request was received. The governing body of each public water system, or the city or county if either is required to comply with this act pursuant to subdivision (b), shall approve the assessment prepared pursuant to this section at a regular or special meeting.

(2) Prior to the expiration of the 90-day period, if the public water system intends to request an extension of time to prepare and adopt the assessment, the public water system shall meet with the city or county to request an extension of time, which shall not exceed 30 days, to prepare and adopt the assessment.

(3) If the public water system fails to request an extension of time, or fails to submit the assessment notwithstanding the extension of time granted pursuant to paragraph (2), the city or county may seek a writ of mandamus to compel the governing body of the public water system to comply with the requirements of this part relating to the submission of the water supply assessment.

(h) Notwithstanding any other provision of this part, if a project has been the subject of a water supply assessment that complies with the requirements of this part, no additional water supply assessment shall be required for subsequent projects that were part of a larger project for which a water supply assessment was completed and that has complied with the requirements of this part and for which the public water system, or the city or county if either is required to comply with this part pursuant

to subdivision (b), has concluded that its water supplies are sufficient to meet the projected water demand associated with the proposed project, in addition to the existing and planned future uses, including, but not limited to, agricultural and industrial uses, unless one or more of the following changes occurs:

(1) Changes in the project that result in a substantial increase in water demand for the project.

(2) Changes in the circumstances or conditions substantially affecting the ability of the public water system, or the city or county if either is required to comply with this part pursuant to subdivision (b), to provide a sufficient supply of water for the project.

(3) Significant new information becomes available which was not known and could not have been known at the time when the assessment was prepared.

SEC. 5. Section 10911 of the Water Code is amended to read:

10911. (a) If, as a result of its assessment, the public water system concludes that its water supplies are, or will be, insufficient, the public water system shall provide to the city or county its plans for acquiring additional water supplies, setting forth the measures that are being undertaken to acquire and develop those water supplies. If the city or county, if either is required to comply with this part pursuant to subdivision (b), concludes as a result of its assessment, that water supplies are, or will be, insufficient, the city or county shall include in its water supply assessment its plans for acquiring additional water supplies, setting forth the measures that are being undertaken to acquire and develop those water supplies. Those plans may include, but are not limited to, information concerning all of the following:

(1) The estimated total costs, and the proposed method of financing the costs, associated with acquiring the additional water supplies.

(2) All federal, state, and local permits, approvals, or entitlements that are anticipated to be required in order to acquire and develop the additional water supplies.

(3) Based on the considerations set forth in paragraphs (1) and (2), the estimated timeframes within which the public water system, or the city or county if either is required to comply with this part pursuant to subdivision (b), expects to be able to acquire additional water supplies.

(b) The city or county shall include the water supply assessment provided pursuant to Section 10910, and any information provided pursuant to subdivision (a), in any environmental document prepared for the project pursuant to Division 13 (commencing with Section 21000) of the Public Resources Code.

(c) The city or county may include in any environmental document an evaluation of any information included in that environmental

document provided pursuant to subdivision (b). The city or county shall determine, based on the entire record, whether projected water supplies will be sufficient to satisfy the demands of the project, in addition to existing and planned future uses. If the city or county determines that water supplies will not be sufficient, the city or county shall include that determination in its findings for the project.

SEC. 6. Section 10912 of the Water Code is amended to read:

10912. For the purposes of this part, the following terms have the following meanings:

(a) "Project" means any of the following:

(1) A proposed residential development of more than 500 dwelling units.

(2) A proposed shopping center or business establishment employing more than 1,000 persons or having more than 500,000 square feet of floor space.

(3) A proposed commercial office building employing more than 1,000 persons or having more than 250,000 square feet of floor space.

(4) A proposed hotel or motel, or both, having more than 500 rooms.

(5) A proposed industrial, manufacturing, or processing plant, or industrial park planned to house more than 1,000 persons, occupying more than 40 acres of land, or having more than 650,000 square feet of floor area.

(6) A mixed-use project that includes one or more of the projects specified in this subdivision.

(7) A project that would demand an amount of water equivalent to, or greater than, the amount of water required by a 500 dwelling unit project.

(b) If a public water system has fewer than 5,000 service connections, then "project" means any proposed residential, business, commercial, hotel or motel, or industrial development that would account for an increase of 10 percent or more in the number of the public water system's existing service connections, or a mixed-use project that would demand an amount of water equivalent to, or greater than, the amount of water required by residential development that would represent an increase of 10 percent or more in the number of the public water system's existing service connections.

(c) "Public water system" means a system for the provision of piped water to the public for human consumption that has 3000 or more service connections. A public water system includes all of the following:

(1) Any collection, treatment, storage, and distribution facility under control of the operator of the system which is used primarily in connection with the system.

(2) Any collection or pretreatment storage facility not under the control of the operator that is used primarily in connection with the system.

(3) Any person who treats water on behalf of one or more public water systems for the purpose of rendering it safe for human consumption.

SEC. 7. Section 10913 of the Water Code is repealed.

SEC. 8. Section 10915 of the Water Code is amended to read:

10915. The County of San Diego is deemed to comply with this part if the Office of Planning and Research determines that all of the following conditions have been met:

(a) Proposition C, as approved by the voters of the County of San Diego in November 1988, requires the development of a regional growth management plan and directs the establishment of a regional planning and growth management review board.

(b) The County of San Diego and the cities in the county, by agreement, designate the San Diego Association of Governments as that review board.

(c) A regional growth management strategy that provides for a comprehensive regional strategy and a coordinated economic development and growth management program has been developed pursuant to Proposition C.

(d) The regional growth management strategy includes a water element to coordinate planning for water that is consistent with the requirements of this part.

(e) The San Diego County Water Authority, by agreement with the San Diego Association of Governments in its capacity as the review board, uses the association's most recent regional growth forecasts for planning purposes and to implement the water element of the strategy.

(f) The procedures established by the review board for the development and approval of the regional growth management strategy, including the water element and any certification process established to ensure that a project is consistent with that element, comply with the requirements of this part.

(g) The environmental documents for a project located in the County of San Diego include information that accomplishes the same purposes as a water supply assessment that is prepared pursuant to Section 10910.

SEC. 9. Section 3.5 of this bill incorporates amendments to Section 10631 of the Water Code proposed by both this bill and AB 901. It shall only become operative if (1) both bills are enacted and become effective on or before January 1, 2002, (2) each bill amends Section 10631 of the Water Code, and (3) this bill is enacted after AB 901, in which case Section 3 of this bill shall not become operative.

SEC. 10. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because a local agency or school district has the authority to levy service charges, fees, or assessments sufficient to pay for the program or level of service mandated by this act, within the meaning of Section 17556 of the Government Code.

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Senate Bill No. 221

CHAPTER 642

An act to amend Section 11010 of the Business and Professions Code, and to amend Section 65867.5 of, and to add Sections 66455.3 and 66473.7 to, the Government Code, relating to land use.

[Approved by Governor October 9, 2001. Filed with Secretary of State October 9, 2001.]

LEGISLATIVE COUNSEL'S DIGEST

SB 221, Kuehl. Land use: water supplies.

(1) Under the Subdivision Map Act, a legislative body of a city or county is required to deny approval of a tentative map, or a parcel map for which a tentative map is not required, if it makes any of a number of specified findings. Under the Planning and Zoning Law, a city, county, or city and county may not approve a development agreement unless the legislative body finds that the agreement is consistent with the general plan and any applicable specific plan.

This bill would prohibit approval of a tentative map, or a parcel map for which a tentative map was not required, or a development agreement for a subdivision of property of more than 500 dwelling units, except as specified, including the design of the subdivision or the type of improvement, unless the legislative body of a city or county or the designated advisory agency provides written verification from the applicable public water system that a sufficient water supply is available or, in addition, a specified finding is made by the local agency that sufficient water supplies are, or will be, available prior to completion of the project.

By increasing the duties of local legislative bodies and local planning agencies and commissions, the bill would impose a state-mandated local program.

(2) Existing law requires any person who intends to offer subdivided lands within California for sale or lease to file with the Department of Real Estate an application for a public report consisting of a notice of intention and a completed questionnaire that includes, among other things, a true statement of the provisions, if any, that have been made for public utilities in the proposed subdivision, including water, electricity, gas, telephone, and sewerage facilities.

This bill would provide that for proposed subdivisions subject to specified requirements of the Subdivision Map Act, the true statement of the provisions that have been made for water is satisfied by submitting

a copy of the written verification of the availability of a sufficient water supply, obtained pursuant to specified requirements as described in (1) above.

(3) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

The people of the State of California do enact as follows:

SECTION 1. Section 11010 of the Business and Professions Code is amended to read:

11010. (a) Except as otherwise provided pursuant to subdivision (c) or elsewhere in this chapter, any person who intends to offer subdivided lands within this state for sale or lease shall file with the Department of Real Estate an application for a public report consisting of a notice of intention and a completed questionnaire on a form prepared by the department.

(b) The notice of intention shall contain the following information about the subdivided lands and the proposed offering:

(1) The name and address of the owner.

(2) The name and address of the subdivider.

(3) The legal description and area of lands.

(4) A true statement of the condition of the title to the land, particularly including all encumbrances thereon.

(5) A true statement of the terms and conditions on which it is intended to dispose of the land, together with copies of any contracts intended to be used.

(6) A true statement of the provisions, if any, that have been made for public utilities in the proposed subdivision, including water, electricity, gas, telephone, and sewerage facilities. For subdivided lands that were subject to the imposition of a condition pursuant to subdivision (b) of Section 66473.7 of the Government Code, the true statement of the provisions made for water shall be satisfied by submitting a copy of the written verification of the available water supply obtained pursuant to Section 66473.7 of the Government Code.

(7) A true statement of the use or uses for which the proposed subdivision will be offered.

(8) A true statement of the provisions, if any, limiting the use or occupancy of the parcels in the subdivision.

(9) A true statement of the amount of indebtedness that is a lien upon the subdivision or any part thereof, and that was incurred to pay for the construction of any onsite or offsite improvement, or any community or recreational facility.

(10) A true statement or reasonable estimate, if applicable, of the amount of any indebtedness which has been or is proposed to be incurred by an existing or proposed special district, entity, taxing area, assessment district, or community facilities district within the boundaries of which, the subdivision, or any part thereof, is located, and that is to pay for the construction or installation of any improvement or to furnish community or recreational facilities to that subdivision, and which amounts are to be obtained by ad valorem tax or assessment, or by a special assessment or tax upon the subdivision, or any part thereof.

(11) (A) As to each school district serving the subdivision, a statement from the appropriate district that indicates the location of each high school, junior high school, and elementary school serving the subdivision, or documentation that a statement to that effect has been requested from the appropriate school district.

(B) In the event that, as of the date the notice of intention and application for issuance of a public report are otherwise deemed to be qualitatively and substantially complete pursuant to Section 11010.2, the statement described in subparagraph (A) has not been provided by any school district serving the subdivision, the person who filed the notice of intention and application for issuance of a public report immediately shall provide the department with the name, address, and telephone number of that district.

(12) The location of all existing airports, and of all proposed airports shown on the general plan of any city or county, located within two statute miles of the subdivision.

(13) A true statement, if applicable, referencing any soils or geologic report or soils and geologic reports that have been prepared specifically for the subdivision.

(14) A true statement of whether or not fill is used, or is proposed to be used in the subdivision and a statement giving the name and the location of the public agency where information concerning soil conditions in the subdivision is available.

(15) Any other information that the owner, his or her agent, or the subdivider may desire to present.

(c) The commissioner may, by regulation, or on the basis of the particular circumstances of a proposed offering, waive the requirement of the submission of a completed questionnaire if the commissioner determines that prospective purchasers or lessees of the subdivision interests to be offered will be adequately protected through the issuance

of a public report based solely upon information contained in the notice of intention.

SEC. 2. Section 65867.5 of the Government Code is amended to read:

65867.5. (a) A development agreement is a legislative act that shall be approved by ordinance and is subject to referendum.

(b) A development agreement shall not be approved unless the legislative body finds that the provisions of the agreement are consistent with the general plan and any applicable specific plan.

(c) A development agreement that includes a subdivision, as defined in Section 66473.7, shall not be approved unless the agreement provides that any tentative map prepared for the subdivision will comply with the provisions of Section 66473.7.

SEC. 3. Section 66455.3 is added to the Government Code, to read:

66455.3. Not later than five days after a city or county has determined that a tentative map application for a proposed subdivision, as defined in Section 66473.7, is complete pursuant to Section 65943, the local agency shall send a copy of the application to any water supplier that is, or may become, a public water system, as defined in Section 10912 of the Water Code, that may supply water for the subdivision.

SEC. 4. Section 66473.7 is added to the Government Code, to read:

66473.7. (a) For the purposes of this section, the following definitions apply:

(1) "Subdivision" means a proposed residential development of more than 500 dwelling units, except that for a public water system that has fewer than 5,000 service connections, "subdivision" means any proposed residential development that would account for an increase of 10 percent or more in the number of the public water system's existing service connections.

(2) "Sufficient water supply" means the total water supplies available during normal, single-dry, and multiple-dry years within a 20-year projection that will meet the projected demand associated with the proposed subdivision, in addition to existing and planned future uses, including, but not limited to, agricultural and industrial uses. In determining "sufficient water supply," all of the following factors shall be considered:

(A) The availability of water supplies over a historical record of at least 20 years.

(B) The applicability of an urban water shortage contingency analysis prepared pursuant to Section 10632 of the Water Code that includes actions to be undertaken by the public water system in response to water supply shortages.

(C) The reduction in water supply allocated to a specific water use sector pursuant to a resolution or ordinance adopted, or a contract entered into, by the public water system, as long as that resolution, ordinance, or contract does not conflict with Section 354 of the Water Code.

(D) The amount of water that the water supplier can reasonably rely on receiving from other water supply projects, such as conjunctive use, reclaimed water, water conservation, and water transfer, including programs identified under federal, state, and local water initiatives such as CALFED and Colorado River tentative agreements, to the extent that these water supplies meet the criteria of subdivision (d).

(3) "Public water system" means the water supplier that is, or may become as a result of servicing the subdivision included in a tentative map pursuant to subdivision (b), a public water system, as defined in Section 10912 of the Water Code, that may supply water for a subdivision.

(b) (1) The legislative body of a city or county or the advisory agency, to the extent that it is authorized by local ordinance to approve, conditionally approve, or disapprove the tentative map, shall include as a condition in any tentative map that includes a subdivision a requirement that a sufficient water supply shall be available. Proof of the availability of a sufficient water supply shall be requested by the subdivision applicant or local agency, at the discretion of the local agency, and shall be based on written verification from the applicable public water system within 90 days of a request.

(2) If the public water system fails to deliver the written verification as required by this section, the local agency or any other interested party may seek a writ of mandamus to compel the public water system to comply.

(3) If the written verification provided by the applicable public water system indicates that the public water system is unable to provide a sufficient water supply that will meet the projected demand associated with the proposed subdivision, then the local agency may make a finding, after consideration of the written verification by the applicable public water system, that additional water supplies not accounted for by the public water system are, or will be, available prior to completion of the subdivision that will satisfy the requirements of this section. This finding shall be made on the record and supported by substantial evidence.

(4) If the written verification is not provided by the public water system, notwithstanding the local agency or other interested party securing a writ of mandamus to compel compliance with this section, then the local agency may make a finding that sufficient water supplies

are, or will be, available prior to completion of the subdivision that will satisfy the requirements of this section. This finding shall be made on the record and supported by substantial evidence.

(c) The applicable public water system's written verification of its ability or inability to provide a sufficient water supply that will meet the projected demand associated with the proposed subdivision as required by subdivision (b) shall be supported by substantial evidence. The substantial evidence may include, but is not limited to, any of the following:

(1) The public water system's most recently adopted urban water management plan adopted pursuant to Part 2.6 (commencing with Section 10610) of Division 6 of the Water Code.

(2) A water supply assessment that was completed pursuant to Part 2.10 (commencing with Section 10910) of Division 6 of the Water Code.

(3) Other information relating to the sufficiency of the water supply that contains analytical information that is substantially similar to the assessment required by Section 10635 of the Water Code.

(d) When the written verification pursuant to subdivision (b) relies on projected water supplies that are not currently available to the public water system, to provide a sufficient water supply to the subdivision, the written verification as to those projected water supplies shall be based on all of the following elements, to the extent each is applicable:

(1) Written contracts or other proof of valid rights to the identified water supply that identify the terms and conditions under which the water will be available to serve the proposed subdivision.

(2) Copies of a capital outlay program for financing the delivery of a sufficient water supply that has been adopted by the applicable governing body.

(3) Securing of applicable federal, state, and local permits for construction of necessary infrastructure associated with supplying a sufficient water supply.

(4) Any necessary regulatory approvals that are required in order to be able to convey or deliver a sufficient water supply to the subdivision.

(e) If there is no public water system, the local agency shall make a written finding of sufficient water supply based on the evidentiary requirements of subdivisions (c) and (d) and identify the mechanism for providing water to the subdivision.

(f) In making any findings or determinations under this section, a local agency, or designated advisory agency, may work in conjunction with the project applicant and the public water system to secure water supplies sufficient to satisfy the demands of the proposed subdivision. If the local agency secures water supplies pursuant to this subdivision, which supplies are acceptable to and approved by the governing body of

the public water system as suitable for delivery to customers, it shall work in conjunction with the public water system to implement a plan to deliver that water supply to satisfy the long-term demands of the proposed subdivision.

(g) The written verification prepared under this section shall also include a description, to the extent that data is reasonably available based on published records maintained by federal and state agencies, and public records of local agencies, of the reasonably foreseeable impacts of the proposed subdivision on the availability of water resources for agricultural and industrial uses within the public water system's service area that are not currently receiving water from the public water system but are utilizing the same sources of water. To the extent that those reasonably foreseeable impacts have previously been evaluated in a document prepared pursuant to the California Environmental Quality Act (Division 13 (commencing with Section 21000) of the Public Resources Code) or the National Environmental Policy Act (Public Law 91-190) for the proposed subdivision, the public water system may utilize that information in preparing the written verification.

(h) Where a water supply for a proposed subdivision includes groundwater, the public water system serving the proposed subdivision shall evaluate, based on substantial evidence, the extent to which it or the landowner has the right to extract the additional groundwater needed to supply the proposed subdivision. Nothing in this subdivision is intended to modify state law with regard to groundwater rights.

(i) This section shall not apply to any residential project proposed for a site that is within an urbanized area and has been previously developed for urban uses, or where the immediate contiguous properties surrounding the residential project site are, or previously have been, developed for urban uses, or housing projects that are exclusively for very low and low-income households.

(j) The determinations made pursuant to this section shall be consistent with the obligation of a public water system to grant a priority for the provision of available and future water resources or services to proposed housing developments that help meet the city's or county's share of the regional housing needs for lower income households, pursuant to Section 65589.7.

(k) The County of San Diego shall be deemed to comply with this section if the Office of Planning and Research determines that all of the following conditions have been met:

(1) A regional growth management strategy that provides for a comprehensive regional strategy and a coordinated economic development and growth management program has been developed pursuant to Proposition C as approved by the voters of the County of San

Diego in November 1988, which required the development of a regional growth management plan and directed the establishment of a regional planning and growth management review board.

(2) Each public water system, as defined in Section 10912 of the Water Code, within the County of San Diego has adopted an urban water management plan pursuant to Part 2.6 (commencing with Section 10610) of the Water Code.

(3) The approval or conditional approval of tentative maps for subdivisions, as defined in this section, by the County of San Diego and the cities within the county requires written communications to be made by the public water system to the city or county, in a format and with content that is substantially similar to the requirements contained in this section, with regard to the availability of a sufficient water supply, or the reliance on projected water supplies to provide a sufficient water supply, for a proposed subdivision.

(*l*) Nothing in this section shall preclude the legislative body of a city or county, or the designated advisory agency, at the request of the applicant, from making the determinations required in this section earlier than required pursuant to subdivision (a).

(m) Nothing in this section shall be construed to create a right or entitlement to water service or any specific level of water service.

(n) Nothing in this section is intended to change existing law concerning a public water system's obligation to provide water service to its existing customers or to any potential future customers.

(o) Any action challenging the sufficiency of the public water system's written verification of a sufficient water supply shall be governed by Section 66499.37.

SEC. 5. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because a local agency or school district has the authority to levy service charges, fees, or assessments sufficient to pay for the program or level of service mandated by this act, within the meaning of Section 17556 of the Government Code.

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